

## MEMORANDUM

DATE: June 18, 2007

TO: All Members of the Delaware House of Representatives

FROM: Ms. Daniese McMullin-Powell  
Chairperson  
State Council for Persons with Disabilities

RE: S.B. 90 [Sex Offender Management Board]

The State Council for Persons with Disabilities (SCPD) has reviewed S.B. 90 which would establish the Sex Offender Management Board. The Board would be chaired by the Secretary of the Department of Safety and Homeland Security (line 86) and include 20 other members from a variety of agencies and disciplines (lines 49-84). By January 1, 2009, the Board would “prescribe a standardized procedure for the evaluation, identification, and classification of adult and juvenile sex offenders” (lines 104-105); “approve the risk assessment screening instrument” (lines 123-124); and “develop guidelines and standards for a system of programs and treatment of sex offenders” (lines 113-115). By January 1, 2010, the Board would “implement” guidelines on “monitoring and tracking, evaluation, identification, classification, and treatment” of sex offenders (lines 134-138); and 2) “adopt guidelines ...regarding the living arrangements and location of sex offenders” (lines 147-149). Effective with offenses committed after January 1, 2010, treatment would generally be required as part of sentencing for offenders (lines 159-162).

The bill would promote comprehensive assessment, review, and development of sex offender policies and interventions. Therefore, SCPD endorses the concept of the bill subject to the following observations and concerns.

First, the definition of “sex offender” (line 42) could be improved. It includes a reference to persons who have been “convicted or adjudicated of an offense”. It is unclear if this is intended to cover juvenile delinquency adjudications. Moreover, the term “adjudicated of an offense” is odd. Someone could be adjudicated not guilty of an offense. It would be preferable to refer to “convicted or adjudicated delinquent of an offense...” Compare Title 11 Del.C. §4121(a)(4)b.

Second, the bill (lines 108-109) unnecessarily restricts the professional discretion of the Board. It

recites as follows:

The Board shall develop and implement measures of success based on a no-cure policy for intervention.

Although “some sex offenders are extremely habituated” (line 107) and not subject to “cure”, this is not true of all persons who have ever been found guilty of a sexual offense. For some offenders, the sex offense may have been a minor, isolated act and may be remote in time. For example, a 16 year old could have been adjudicated delinquent for indecent exposure for “flashing” or “mooning” and therefore be a sex offender within the scope of the bill. See line 43 and Title 11 Del.C. §761(g) and 764. It is counterproductive to statutorily direct the Board to conclusively treat all sex offenders as incorrigible, lifelong predators and to develop all policies based on that belief.

Third, the bill adopts a “one-size-fits-all” approach to screening. The Board is directed to “approve the risk assessment screening instrument” (lines 123-124). No single instrument will be appropriate for juveniles and adults, males and females, English-speaking and LEP persons, and persons of normal versus limited intellect.

Thank you for your consideration and please contact SCPD if you have any questions regarding our position or observations on the proposed legislation.

cc: The Honorable Ruth Ann Minner  
All Members of the Delaware State Senate  
Governor’s Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

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